



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 2623-00

31 August 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: SGT [REDACTED] USMC [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 28 Mar 00 w/attachments
(2) Subject's ltr dtd 26 Jun 00
(3) HQMC MI memo dtd 30 May 00
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing four service record page 11 ("Administrative Remarks (1070)") entries, dated 21 July and 1 August 1997 and 19 February and 12 April 1999. His letter at enclosure (2) reflects that he withdrew his requests to remove the entries dated 21 July 1997 and 12 April 1999. Copies of the two entries he is still contesting are in enclosure (1) at Tabs A and B, respectively.

2. The Board, consisting of Messrs. Ensley, Schultz, and Swarens, reviewed Petitioner's allegations of error and injustice on 24 August 2000, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In correspondence attached as enclosure (3), the Headquarters Marine Corps office having cognizance over the subject matter of Petitioner's request has commented to the effect that this request has merit and warrants favorable action.


CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (3), the Board finds the existence of an injustice warranting the following corrective action.

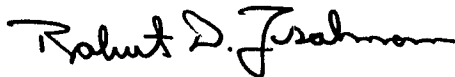
RECOMMENDATION:

- a. That Petitioner's record be corrected by removing his service record page 11 ("Administrative Remarks (1070)") entries dated 1 August 1997 and 19 February 1999.
 - b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.
 - c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


JONATHAN S. RUSKIN
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


For W. DEAN PFEIFFER
Executive Director



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

2423-00

IN REPLY REFER TO:

1070

MI

30 MAY 2000

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF CORPORAL [REDACTED]
[REDACTED] USMC

1. We reviewed Corporal [REDACTED]'s application concerning his request for removal of the Administrative Remarks page 11 entries dated 970721, 970801, 990219, and 990412 from his service records.

2. MCO P1070.12H, Marine Corps Individual Records Administration Manual (IRAM), paragraph 1001.4 states that when a Marine is petitioning the Board for Correction of Naval Records, the application must include a copy of the document(s) in question, any relevant statements or references and all supporting documentary evidence pertaining to the inaccuracy or injustice.

3. One of the many leadership tools that a commander has at their disposal is counseling and rehabilitation for their Marines. Marine Corps policy is that reasonable efforts at rehabilitation should be made prior to initiation of separation proceedings and that commander is authorized to document those efforts by a page 11 counseling entry per the IRAM. The Marine Corps Separation Manual, paragraph 6105, sets forth policy pertaining to counseling and rehabilitation. In cases involving unsatisfactory performance, pattern of misconduct, or other bases requiring counseling under paragraph 6105, separation processing may not be initiated until the Marine is counseled concerning deficiencies, and afforded a reasonable opportunity to overcome those deficiencies as reflected in appropriate counseling and personnel records.

4. The following comments concerning the page 11 entry dated 970721 are provided:

a. MCO P1070.12H, Marine Corps Individual Records Administration Manual (IRAM), authorizes commanders to make entries on page 11 which are considered matters forming an essential and permanent part of a Marine's military history, which are not recorded elsewhere in the Service Record Book (SRB), medical records, or the Marine's automated record that will be useful to future commanders.

Subj: BCNR APPLICATION IN THE CASE OF CORPORAL [REDACTED]
[REDACTED] USMC

b. The page 11 entry is an authorized entry per paragraph 4012.3n of the IRAM. A "not recommended for promotion" entry is required for each quarter a Marine is not recommended for promotion to the grade of Corporal and Sergeant. The entry must state the reason why they are not being recommended and must include the language concerning the Marine's right to submit a statement in rebuttal.

c. [REDACTED] was not recommended for promotion to Corporal during the promotion quarter of Jul/Aug/Sep 97 due to "lack of maturity."

d. [REDACTED] claims that the page 11 entry is in error because "I was never counseled on the entry or given the opportunity to write rebuttals." [REDACTED] acknowledged the page 11 entry by his signature and annotated that he chose "not to" make a rebuttal statement.

e. [REDACTED] does not provide any relevant statements, references or supporting documentary evidence pertaining to his claim.

f. [REDACTED]'s automated records indicate that he was promoted to the grade of Corporal on January 1, 1998.

5. The following comments concerning the page 11 entry dated 970801 are provided:

a. MCO P1070.12H, Marine Corps Individual Records Administration Manual (IRAM), authorizes commanders to make entries on page 11 which are considered matters forming an essential and permanent part of a Marine's military history, which are not recorded elsewhere in the SRB, medical records, or the Marine's automated record that will be useful to future commanders.

b. Paragraph 4012.3aa of the IRAM gives a commander an option to use the counseling entry for the purpose of counseling a Marine concerning their deficiencies for which administrative separation or nonjudicial punishment actions are not appropriate or contemplated.

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED] E.
[REDACTED] USMC

c. The counseling entry does not meet the elements of proper a page 11 counseling in that it contains specific deficiencies that has not been authenticated by the commander. Page 11 entries are record keeping entries that forms an essential and permanent part of a Marine's military history. Paragraph 4001.4h(2) of the IRAM states that "record keeping entries do not include entries that require an opinion or judgment of the commander, or any other entries, documents, forms, or sample entries specifically requiring the signature of the commander." Paragraph 4001.4h(5) specifically addresses "only the commander, acting commander in the commander's absence, or a commissioned officer, warrant officer, or staff noncommissioned officer designated in writing will authenticate entries."

d. [REDACTED] claims that the page 11 entry is in error based upon the fact that the "Company Commander did not sign the entry....as is required after counseling.", a requirement per paragraph 4001.4h(2).

e. A photocopy of the original page 11 entry is in his SRB with a reconstructed page 11 (enclosure (2)) containing duplicate entries dating 960229 and 970721 filed in sequence. The reconstructed page 11 was completed accurately as an authorized correction method for removing an erroneous page 11 entry by reconstructing the original entries that have record keeping value. The original page 11 was removed and a photocopy was entered erroneously. With both page 11s on file in his SRB, this has the appearance that the original page 11 entry was reconstructed for the purpose of removing the counseling entry dated 970801.

6. The following comments concerning the page 11 entries dated 990219 and 990412 are provided:

a. MCO P1070.12J, Marine Corps Individual Records Administration Manual (IRAM), authorizes commanders to make service record book entries on page 11 for recording information that is not, or cannot be, documented anywhere else in the SRB or the Marine's automated record.

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED]
[REDACTED] USMC

b. The counseling entries meet the elements of a proper page 11 counseling in that they list specific deficiencies and recommendations for corrective action, where assistance can be found and state that the Marine was provided the opportunity to make a rebuttal statement. The Marine must annotate whether or not they choose to make such a statement and if made, a copy of the statement is filed in the service record. [REDACTED] acknowledged the counseling entry dated 990412 by his signature and did not annotate his desire to make or not to make a statement in rebuttal. [REDACTED] refused to acknowledge the page 11 counseling entry dated 990219 as well as annotate his desire 'to' make or 'not to' make a statement in rebuttal.

c. [REDACTED] claims that the page 11 entry dated 990219 is in error based upon the fact that "it contains an erroneous statement. The Commanding General, 3d FSSG, as a result of a request mast, directed that.....be replaced.....".

d. It is in our opinion that the counseling entry dated 990219 was reconstructed as [REDACTED] claims, under the direction of the Commanding General, 3d FSSG, therefore, making it null and void, and should have been properly disposed of.

e. [REDACTED]'s claim that the page 11 entry dated 990419 is in error or unjust based upon "The entry was written by a Company Commander not within my unit.", a claim that contradicts his previous statement that the entry was directed to be prepared by the Commanding General, 3d FSSG, a claim that is irrelevant. The official who rewrote the entry had to have been in his chain of command and under the direction of the Commanding General, 3d FSSG.

f. [REDACTED] does not provide any relevant statements, references or supporting documentary evidence pertaining to his claim.

6. In view of the above, it is recommended that:

a. Disapprove [REDACTED]'s request for removal from his service records, the page 11 counseling entry dated 970721.

b. Approve [REDACTED]'s request for removal from his service records, the page 11 counseling entry dated 970801.

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED]

c. Approve Corporal [REDACTED] request for removal from his service records, the page 11 counseling entry dated 990219.

d. Disapprove Corporal [REDACTED] request for removal from his service records, the page 11 counseling entry dated 990412.

7. Point of contact [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
Manpower Management Information
Systems Division